

**Enrolled Memorandum of the Meeting
Study Session/Meeting
Twenty-Eighth Town Council of Highland
Monday, November 18, 2019**

The Twenty-Eighth Town Council of the Town of Highland, Lake County, Indiana met in a study session on **Monday, November 18, 2019** at 6:34 O'clock P.M., in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Konnie Kuiper, Dan Vassar, and Steve Wagner were present. Councilor Mark Herak was absent. The Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. A quorum was attained.

Officials Present: Rhett L. Tauber, Town Attorney; and Kathy DeGuilio-Fox, Redevelopment Director were also present.

Additional Officials Present: Larry Kondrat, Board of Waterworks Directors; Ed Dabrowski, IT Consultant (Contract); Roger Sheeman, Town Councilor-elect Ward 5; and Tom Black, Town Councilor-elect, Ward 4; were present.

Guests: Robin Carlascio of the Idea Factory, was also present.

General Substance of Matters Discussed.

1. **Discussion on License to encroach, granted by the Town Council for a property a number of years ago but for which the recorded document was not perfected.** The Town Clerk-Treasurer and the Town Attorney explained that the Town Council at its meeting of May 12, 2008, passed and adopted Resolution No. 2008-20, which granted a 'license to encroach' on the public way for the then proper owners of 8625 Liable Road, Highland as well as their heirs, successors and assigns. (See below)

**Town of Highland
TOWN COUNCIL
Resolution No. 2008-20**

A Resolution Authorizing, Establishing, Granting and Approving a License to Encroach upon the Public Way to Arnold, Myron, Joseph Susoreny and Naudeen Thomas for property located at 8625 Liable Road, Highland, Indiana, and to their Heirs, Successors, and Assigns

WHEREAS, *Arnold, Myron, Joseph Susoreny and Naudeen Thomas*, (Grantee) are the owners of property located in the Town of Highland, Lake County, Indiana, (Grantor) which is legally described as follows:

The North 74 Feet of the South 438 Feet of the West Half of the West Half of the Northwest Quarter of the Southeast Quarter of Section 22, Township 36 North, Range 9 West of the Second Principal Meridian, except the East 140 feet thereof in the Town of Highland, Lake County, Indiana, more commonly known as 8625 Liable Road, Highland, Indiana.

WHEREAS, The subject property lies north of a platted 60 foot, unimproved, public right-of-way particularly illustrated in Exhibit A, attached hereto and incorporated herein; and

WHEREAS, The subject right-of-way was platted for the purpose of an improved public way extension of Condit Street, which has not been improved for the purpose as originally platted; and

WHEREAS, *Arnold, Myron, Joseph Susoreny and Naudeen Thomas*, per the attached letter (Exhibit B), incorporated by reference and made part of this Resolution, have proposed and requested a "Right of Encroachment", hereinafter referred to as "license", to permit the encroachment of an existing driveway on the public right-of-way; and

WHEREAS, The Town of Highland, through its Town Council, has determined that such a license, which grants such an encroachment so long as such encroachment does not interfere with the Town of Highland's use of its right-of-way, would be acceptable.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of Highland, Indiana that the proposed "License to Encroach" is hereby approved and ratified in each and every respect.

BE IT FURTHER RESOLVED that the Town Council President is hereby authorized to execute the written License by his signature as thereto attested by the Clerk-Treasurer and that the License shall be recorded in the Office of the Recorder, Lake County, Indiana.

DULY ADOPTED by the Town Council of the Town of Highland this 12th day of May, 2008. Having been approved by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/ Bernie Zemen, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

License to Encroach

1. *Arnold, Myron, Joseph Susoreny and Naudeen Thomas (Grantee)* are the owners of certain real estate legally described as follows:

The North 74 Feet of the South 438 Feet of the West Half of the West Half of the Northwest Quarter of the Southeast Quarter of Section 22, Township 36 North, Range 9 West of the Second Principal Meridian, except the East 140 feet thereof in the Town of Highland, Lake County, Indiana, more commonly known as 8625 Liable Road, Highland, Indiana.

2. The Town of Highland (Grantor) maintains a 60' public right-of-way south of the Grantee's property, identified as Condit Street.

3. In consideration of the conditions expressed herein, the Grantor hereby grants to the Grantee a License to Encroach upon a portion of the public right-of-way, hereinafter referred to as "Licensed Public Right-of-Way", legally described as follows:

The North 60 feet of the South 364 feet of the West half of the West Half of the Northwest Quarter of the Southeast Quarter of Section 22, Township 36 North, Range 9, West of the Second Principal Meridian excepting there from the West 30 feet thereof, and also excepting the East 140 feet thereof, in the Town of Highland, Lake County, Indiana.

4. The License to Encroach is limited to the driveway existing at the time of this agreement, installed pursuant to the guidelines of the Highland Municipal Code, to encroach upon the Licensed Public Right-of-Way and that there shall be no other permanent structures constructed thereon, including but not limited to garages, sheds, swimming pools, decks, patios (concrete or otherwise), etc., with such driveway to be permitted to remain until such time as the Town may extend and improve the public right of way identified as Condit Street.

5. The Grantee agrees to defend, indemnify and hold the Grantor, its agents, officers, and employees harmless from any liability for any injury, claim or cause of action arising out of the encroachment onto the Licensed Public Right-of-Way.

6. The License to Encroach does not supersede the present or future rights, statutory or otherwise, of the Public Utilities, including but not limited to, the Northern Indiana Public Service Company, AT&T, Comcast, Highland Sanitary District, Highland Water Works District or their respective heirs, successors, and assigns, currently operating within the existing Public right-of-way.

7. The Grantee agrees to maintain the Licensed Public Right-of-Way, without compensation, during the period that the License to Encroach is in full force and effect.

8. This License to Encroach shall be binding upon the heirs, successors, and assigns of the parties hereto.

Grantor:
Town of Highland

Grantee:
*Arnold, Myron, Joseph Susoreny
and Naudeen Thomas*

Bernie Zemen

Arnold Susoreny

Attest:

Myron Susoreny

Michael W. Griffin, Clerk Treasurer

Joseph Susoreny

Naudeen Thomas

State of Indiana)
) SS:
County of Lake)

Before me, the undersigned, a Notary Public in and for the State of Indiana, County of Lake, personally appeared the *Arnold, Myron, Joseph Susoreny and Naudeen Thomas*, and acknowledged their execution of this License to Encroach on this _____ of _____, 2008, for the uses and purposes set forth therein.

Notary Public

Commissions Expires:

County of Residence: _____

Highland Town Council
Bernie Zemen- President
3333 Ridge Road
Highland, IN 46322

Dear Mr. Zemen,

In 1973 our parents (Andrew & Josephine Susoreny) gave the Town of Highland a portion of their property as an easement to build a road (Condit St.) Please find enclosed a copy of the Quit Claim Deed from that transaction with the legal description. In settling our parents estate we are in the process of selling their home located on the north side of this easement at 8625 Liable Road. Upon having a surveyor location report completed for the sale of this property (Copy enclosed) We have found that a portion of the driveway for this home is now located on the easement our parents deeded to the Town of Highland. We are asking the Town Council grant a "License to Encroach" and allow the driveway to remain until such time the town would extend Condit Street across this easement. The garage doors are located on the south side of the garage making access very easy should the road be built. If any additional information is needed please contact our realtor George Georgeff at 219-934-6318 X 332.

Sincerely

Arnold K. Susoreny
Myron Susoreny
Naudeen K. Thomas
Naudeen Thomas

Arnold, Myron, Joseph Susoreny & Naudeen Thomas
1408 Inverness Ln.
Schererville, IN 46375

cc: Michael Griffin
John Bach

907 RIDGE ROAD
MUNSTER, IN 46321

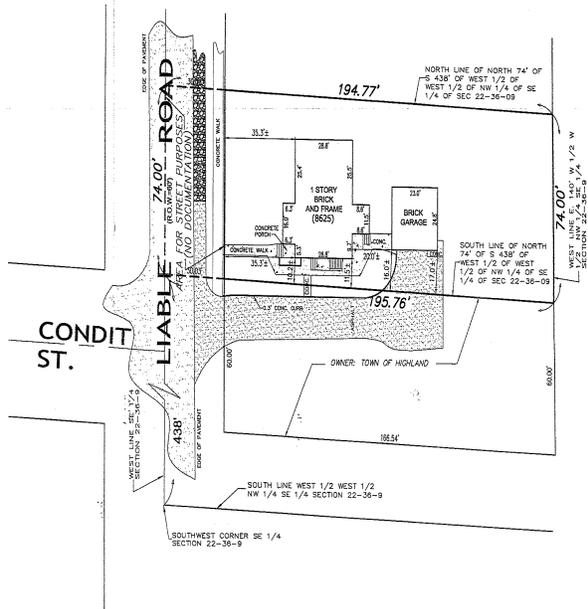
TORRENGA SURVEYING, LLC
PROFESSIONAL LAND SURVEYORS

TEL NO.: (219) 856-8918
FAX NO.: (219) 856-1158
WEB: WWW.TORRENGA.COM

SURVEYOR LOCATION REPORT

ADDRESS: 8625 LIABLE ROAD
HIGHLAND, INDIANA

LEGAL DESCRIPTION: THE NORTH 74 FEET OF THE SOUTH 438 FEET OF THE WEST HALF OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 36 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, EXCEPT THE EAST 140 FEET THEREOF, IN THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA.



PROPOSED BUYER:
PROPOSED LENDER:
TITLE COMPANY:

I HEREBY CERTIFY TO THE PARTIES NAMED ABOVE THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY SUPERVISION ON THE DATE INDICATED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT COMPIRES WITH THE REQUIREMENTS CONTAINED IN SECTIONS 27 THROUGH 29 OF 865 IAC 1-12 FOR A SURVEYOR LOCATION REPORT. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

DATE OF SURVEY: 5-2-08

[Signature]
KEVIN STUART ALLEN - Registered L&S Surveyor No. LS28900011

CLIENT: McCOLLY REAL ESTATE

SCALE: 1 IN = 20 FT. JOB: 0311-08
DATE: 5-2-08 DRAWING: MEJ
FIELD BOOK: 40 PAGE: 245

REVISED ON: BY:
FIELD BOOK: PAGE: FILE: 30780

STATE OF INDIANA
LAND SURVEYOR

3:\202 126 869\map\0311-08 LOC17E.dwg 5/1/2008 3:06:04 PM EST

CAUTION: THIS REPORT IS INTENDED FOR USE ONLY BY TITLE INSURANCE COMPANIES AND LENDERS, OR OTHER PARTIES SPECIFICALLY NAMED HEREON. THE REPORT IS NOT A PROPERTY SURVEY AND NO PROPERTY CORNER MARKERS WERE SET. NO LIABILITY WILL BE ASSUMED FOR THE USE OF ANY DATA HEREON FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FIXTURES. NOTE: ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF. NO DIMENSIONS SHOULD BE ASSUMED BY SCALE MEASUREMENTS UPON THIS REPORT!

THIS FORM HAS BEEN APPROVED BY THE INDIANA STATE BAR ASSOCIATION FOR USE BY LAWYERS ONLY. THE DELETION OF A PORTION OF
HEREINAFTER, FILING IN BLANK SPACES, STRIKING OUT PROVISIONS AND INSERTION OF SPECIAL CLAUSES, CONSTITUTES THE PRACTICE OF
LAW AND SHOULD BE DONE BY A LAWYER.

210951 QUIT-CLAIM DEED

This indenture witnesseth that ANDREW E. SUSORENY and JOSEPHINE SUSORENY,
Husband and Wife

of Lake County in the State of Indiana

Releases and quit claims to THE TOWN OF HIGHLAND, INDIANA, A Municipality

of Lake County in the State of Indiana

for and in consideration of Ten Dollars and other good and valuable consideration
the receipt whereof is hereby acknowledged, the following Real Estate in Lake County
in the State of Indiana, to wit:

The North 60 feet of the South 364 feet of the West 1/2 of the
West 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 22,
Township 26 North, Range 9, West of the 2nd Principal Meridian,
excepting herefrom the West 30 feet thereof, and also excepting
the East 140 feet thereof, in the Town of Highland, Lake County,
Indiana.

27-32-75
DULY ENTERED
FOR TAXATION
JUL 12 1973
Joe Ambrosio
RECORDER LAKE COUNTY

STATE OF INDIANA S. NO.
LAKE COUNTY
FILED FOR RECORD
JUL 12 2 19 PM '73
ANDREW J. MCFENKO
RECORDER

State of Indiana, LAKE County, ss:
Before me, the undersigned, a Notary Public in and for said County
and State, this 5th day of July 1973
personally appeared:

ANDREW E. SUSORENY and JOSEPHINE
SUSORENY, Husband and Wife



and acknowledged the execution of the foregoing deed, in witness
whereof, I have hereunto subscribed my name and affixed my of-
ficial seal. My commission expires 10-16-1976

Lawrence R. Parducci, Notary Public

Dated this 5th Day of July 1973

Andrew E. Susoreny Seal
Andrew E. Susoreny

Josephine Susoreny Seal
Josephine Susoreny

Seal

Seal

This instrument prepared by Phillip E. Bainbridge, 2927 Jesutt St., Highland, Indiana, Attorney at Law

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It was further noted that Nathan Vis, general counsel for the title company dealing with the proper currently, recently communicated with the Town Attorney regarding a complication delaying a disposal or transfer of the property presently. Mr. Vis noted that the license was recorded but was not notarized, a duty that was incumbent upon the grantee. Mr. Vis asked whether the Town Council would consider passing a new resolution, prepared by him, to affirm and perfect the license to encroach, which will be properly notarized if the Town Council agrees. It was further noted that the original grantees are no longer able to be contacted in order to correct the notary issue.

The Town Council President instructed the Town Clerk-Treasurer to place the matter on the plenary meeting agenda for consideration by the Town Council at its meeting of Monday, November 25, 2019.

2. **Discuss informal inquiry from Public Access Counselor regarding memorializing addresses of persons who speak at meetings.** The Town Clerk-Treasurer explained that owing to a request made by Highland resident Elijah Aurand regarding whether he could have his home address excluded from the minutes when he offers public comment, and perhaps have his address redacted from existing minutes, the Town Clerk-Treasurer sought an informal opinion from the Office of the Public Access Counselor, State of Indiana.

The Clerk-Treasurer reported that the informal opinion stated that including addresses of persons who might offer public comment on a matter as “superfluous” and not required. The Public Access Councilor further recommended redacting the addresses as requested “unless a requester of the minutes insists that they be absolutely unredacted.”

The Town Clerk-Treasurer indicated that the Town Council probably should deliberate and consider formally adopting a policy regarding the inclusion of the address associated with a resident or guest who speaks on a topic. It was noted that including whether a speaker is a resident of the Town may be sufficient. No formal recommendation emerged.



STATE OF INDIANA
ERIC J. HOLCOMB, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT
Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)234-0909
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

November 4, 2019

Town of Highland
Michael Griffin, Clerk-Treasurer
3333 Ridge Road
Highland, IN 46522

VIA EMAIL: mgriffin@highland.in.gov

Re: Informal Inquiry 19-INF-16; Home Addresses in Meeting Minutes

Dear Mr. Griffin,

This is in response to the informal inquiry you submitted to our office on September 3, 2019. Specifically, you inquire as to whether a resident who frequently attends meetings can request to have his remarks from a public comment forum redacted as to his home address. Name and address are traditionally required before an individual can give remarks to the Town Council.

Under the Open Door Law, the requirements for minutes are fairly straightforward and found at Indiana Code section 5-14-1.5-4(b). Minutes (or memoranda) must be kept to include the following items:

- (1) The date, time, and place of the meeting.
- (2) The members of the governing body recorded as either present or absent.
- (3) The general substance of all matters proposed, discussed, or decided.
- (4) A record of all votes taken by individual members if there is a roll call.
- (5) Any additional information required under section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

Notably, nothing in the statute mandates that public commenters be recorded for posterity purposes. I believe it is sufficient to simply denote that a public comment period took place, and the names of who chose to speak and regarding what subject matter. Addresses would be superfluous to the recording of minutes for official purposes.

As far as redacting those minutes which have already been documented, the Access to Public Records Act does not specifically declare home addresses to be confidential in the milieu of public meetings. That written, there are indeed certain portions of the statute which do declare home addresses to be confidential in other contexts. My recommendation is to redact the house number unless a requester of the minutes absolutely insists that they be unredacted.

Alternatively, if the Council wishes for a commenter to declare residency before speaking, perhaps neighborhood or general area of residency be required instead of specific home address.
Please do not hesitate to contact me with any questions.

Best regards,



Luke H. Britt
Public Access Counselor

3. Discuss the possibility of extending group health benefit for retired officer John Swisher while he continues to seek a line of duty disability pension under IC 36-8-8 et seq. to December 31, 2020. The Town Council discussed the circumstances regarding Retired Officer John Swisher, noting the background below. It was noted that Officer Swisher still was seeking an appeal of his current disability status. Officer Swisher is receiving his disability pension but not at the level that IC 36-8-8 generally and IC 36-8-8-13.3(f) in particular would allow. He is appealing the sufficiency (amount).

The Clerk-Treasurer reported that Councilor Herak relayed that the Town Board of Metropolitan Police Commissioners hoped that while Officer Swisher continues to seek a review and modification of his current disability pension, that the Town would extend his no premium status to continue to be covered under the group health plan. *(It is noted that he would be eligible regardless of Council action as a retiree. However, under the Town's policy, he would be required to pay the group premium.)*

The Town Council President instructed the Town Clerk-Treasurer to place the proper enactment extending the premium free coverage for group health insurance on the agenda for the forthcoming plenary meeting for the consideration of the Town Council.

- Background: *Police Officer First Class John Swisher, was on duty, responding to a call for service on December 10, 2016 at 12:57 a.m. heading northbound on the 9100 Block of Kennedy Avenue, Highland, when a southbound car operated by a legally intoxicated driver, crashed into him, head-on at a high rate of speed. Police Officer First Class John Swisher, sustained catastrophic injuries, enduring several surgeries and medical interventions to repair many broken bones, experiencing protracted, extensive treatments and physical therapy from the date of the incident through the end of January 2018. Officer Swisher is receiving his disability pension but not at the level that IC 36-8-8 generally and IC 36-8-8-13.3(f) in particular would allow. He is appealing the sufficiency (amount). His current extension, granted under Enactment No. 2018-57, to receive group health and related medical insurance without paying the premium will expire December 31, 2019.*
4. ***Discussed the Likely matters to be placed on the Agenda for Monday, November 25.*** The Town Clerk-Treasurer reviewed with the Town Council the listed matters for its consideration at its Monday, November 25, 2019 Plenary business meeting. The dates of meetings for the balance of the year were reviewed and no changes were suggested.

Plenary meetings: 11.25.2019; 12.09.2019; and 12.23.2019.

Study Sessions: 12.02.2019; 12.16.2019.

There being no further business necessary or desired to be discussed by the Town Council, the regular study session of the Town Council of **Monday, November 18, 2019**, was adjourned at 6:50 o'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer